IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6056 of 2005

Between:

Sri Samudrala Manohar Rao S/o Narasimha Rao
R/o D. NO. 2-9-611, NGO's Colony, Vaddepally,
Hanmkonda, Warangal Dsitrict

..... PETITIONER

AND

The Warangal Municipal Corporation Warangal rep by
Commissioner.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of mandamus duly declaring the action of the respondent in encroaching into the vacant site of the petitioner to an extent of 20 gts or 2420 sq.yrds covered in Sy. No. 879 of Hanmakond a Village of Warangal Town and District within the City Municipal Corporation Limits for the purposes of proposed road widening from Hanmkonda to Hunter Road, as arbitrary, illegal and violative of Article 300-A of Constitution of India and also contrary to guidelines that are issued by the Division bench of this Hon'ble Court in WP No. 26400of 1997 and consequently direct the Respondent herein not to proceed with the digging work in the above said land for the purposes of road widening.

Counsel for the Petitioner:MR.VINOD KUMAR DESHPANDE

Counsel for the Respondent: MR.P.RADHAKRISHNA

The Court at the stage of admission made the following :

O R D E R:

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondent.

The petitioner seeks a Writ of Mandamus to declare the action of the respondent in trying to interfere with his possession and enjoyment of the site admeasuring 20 guntas covered by S.No.879 of Hanmakonda village of Warangal Town and District, without following due process of law for the purpose of proposed road widening work, as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P. No. 21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

> *"1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.*
>
> 2. *If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.*
>
> 3. *In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.*

4. *If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.*

5. *In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.*

6. *If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures."*

The learned Standing counsel appearing for the respondent does not dispute the above legal position.

The writ petition is accordingly disposed of directing the respondent not to interfere with the possession of the petitioner in respect of the site to an extent of 20 guntas covered by S.No. 879 of Hanmakonda village of Warangal Town, without following the guidelines issued by the Division Bench in common order dated 03-02-1998 in W.P. No. 21198 of 1997 and batch. No costs.

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(**G. ROHINI, J**)

Date: 23-03-2005

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To

1 The Warangal Municipal Corporation Warangal rep by Commissioner.

2 Two CD copies